

FILED

MAY 04 2015

Clerk, U.S. District Court
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

STEVEN PAUL FURLONG,

Plaintiff,

vs.

K.SUMMERS, NURSE MIKE, and
MIKE BATISTA,

Defendants.

CV 14-74-BU-DWM-JCL

ORDER

Plaintiff Steven Paul Furlong, appearing pro se, alleges Defendants had been deliberately indifferent to his serious medical needs. (Compl., Doc. 2.) Pursuant to Magistrate Judge Jeremiah Lynch's November 19, 2014 Order, (Doc. 10), Furlong filed an Amended Complaint, (Doc. 11). On March 26, 2015, Judge Lynch entered Findings and Recommendations recommending that the case be dismissed. (Doc. 12.) Furlong has not filed objections to the Findings and Recommendations.

The parties are entitled to *de novo* review of the specified findings or recommendations to which they object. 28 U.S.C. § 636(b)(1); *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir.

1981). Where there are no objections, the court is to give the level of consideration it deems appropriate. *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (“It does not appear that Congress intended to require district court review of a magistrate’s factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings.”). This Court reviews for clear error. Clear error exists if the court is left with a “definite and firm conviction that a mistake has been committed.” *Concrete Pipe & Prods. of Cal., Inc. v. Constr. Laborers Pension Trust for S. Cal., Inc.*, 508 U.S. 602, 623 (1993) (internal quotation marks omitted).

The Court finds no clear error with Judge Lynch’s determination that Furlong has failed to sufficiently allege conscious disregard for his health by Nurse Mike, Nurse Summers, and Director Batista. Furlong’s Complaint and Amended Complaint fail to state a claim upon which relief may be granted.

Accordingly, IT IS ORDERED that the Findings and Recommendations (Doc. 12) are ADOPTED IN FULL.

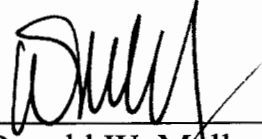
IT IS FURTHER ORDERED that this matter is DISMISSED.

IT IS FURTHER ORDERED that the Clerk of Court is directed to close this matter and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

IT IS FURTHER ORDERED that the Clerk of Court is directed to have the docket reflect that this dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g). Plaintiff failed to state a claim upon which relief may be granted.

IT IS FURTHER ORDERED that the Clerk of Court is directed to have the docket reflect that the Court certifies pursuant to Federal Rule of Appellate Procedure 24(a)(3)(A) that any appeal of this decision would not be taken in good faith. The record makes plain the instant Complaint is frivolous as it lacks arguable substance in law or fact.

DATED this 4th day of May, 2015.



Donald W. Molloy, District Judge
United States District Court

